

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of:)
)
JOHNSON ET AL) Group Art Unit: 2882
)
Serial No. 09/899,329)
)
Filed: July 5, 2001)
)
For: HIGH FIBER COUNT OPTICAL)
FIBER CABLE WITH BUFFER)
TUBES AROUND CENTRAL)
STRENGTH MEMBER)

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REMARKS

Sir:

In an Office Action dated December 18, 2002, the Examiner, in a non-final Action, stated that the declarations originally filed were defective in that certain statements were omitted and rejected all the claims, claims 1-30, on the published application of Lail, US 2001/0007604 A1 published July 12, 2001 and filed February 19, 2001, in view of applicants' disclosure.

The employer-assignee, of the subject application, Pirelli Cables and Systems LLC, (Pirelli) was unable to respond to the Office Action by the due date of June 18, 2003 because two of the inventors, Aull and Petryszak, had left its employ and the employer-assignee was unable to obtain new declarations from the departed inventors by the due date.

Also, Pirelli determined that it could eliminate the Lail publication as a reference by declarations of the inventors which establish conception prior to the Lail filing date of

However, for the reasons set forth hereinbefore, Pirelli was unable to obtain the necessary declarations from the departed inventors by the due date.

As to the alleged defects in the original declarations, it is not understood how no objection was made by the PTO at the time the application was filed if pages were missing from the declaration of the inventors. The PTO did send a Notice to File Corrected Application Papers because an Abstract had not been included with the original papers but the Notice makes no mention of the Declaration.

However, enclosed are new declarations of the inventors which remedy the defects set forth in paragraph 1 on page 2 of the Office Action dated December 18, 2002.

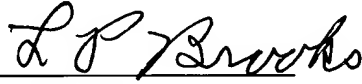
Applicants' attorney has not become aware of errors in the specification which require correction.

Applicants respectfully disagree with the Examiner's rejection of claims 1-30 under 35 U.S.C. 103(a) on Lail in view of applicants' disclosure, but because the enclosed declarations of the inventors under 37 CFR § 1.131, which establish that the inventors conceived the invention claimed prior to the effective filing date of the Lail publication, namely, February 19, 2001, and proceeded with reasonable diligence from immediately prior to such date to the filing of the subject application on July 5, 2001, remove the Lail publication as a reference, it is unnecessary to discuss the rejection further.

Accordingly, applicants have hereby fully responded to the Office Action of

December 18, 2002, and reconsideration and allowance are respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, reading "L P Brooks".

L. P. Brooks

Reg. No. 15,155

Norris, McLaughlin & Marcus
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PCUS-059 (103080-2)
September 4, 2003